GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Servants – Commercial Tax Department – Case under the Prevention of Corruption Act, 1988 – Failed to follow the due procedure– Initiation of Disciplinary Proceedings against Sri Y. Manmadha Rao, DCTO, I/c CTO, Parvathipuram, Vizianagaram District under Rule 20 of Andhra Pradesh Civil Services (Classification Control and Appeal) Rules, 1991 – Articles of charges - Issued.

REVENUE (VIGILANCE-II) DEPARTMENT

G.O.Rt.No.382 **Dated:23.03.2020**

Read the following:

1. From DG, ACB. RC.No.55/RCT-VVZ/2017-S.12,dt.11.09.2018.
2. Representations received from Sri Y. Manmadha Rao, DCTO (AO1), I/c CTO and Sri V.V.V.L. Narasimha Murthy, ACTO(AO.2) (along with enclosures).
3. Govt. memo No.17023/23/2017-Vig.II(3), dated 21.05.2019.
4. From CCST, Proc.Ref.No.V2/100/2017, dated 24.06.2019.
5. From the DG, ACB Lr Rc.No. 55/RCT-VVZ/2017, dated 30.01.2020.

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O R D E R :

It is considered necessary to hold an enquiry against Sri Y. Manmadha Rao, Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District in accordance with the procedure laid down in Rule 20 of the said rules on the allegation of violation of Conduct Rules, 1964.

2. The substance of the imputation of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I) and the imputation of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure-III & IV).

3. Sri Y. Manmadha Rao, Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District is directed to submit within ten days of the receipt of this order a written statement of his defense.

4. Sri Y. Manmadha Rao, Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

5. Sri Y. Manmadha Rao, Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District is further informed that if he does not submit his written statement of defense on or before the date specified in para 3 above, further action will be processed based on the material available.

6. Attention of Sri Y. Manmadha Rao, Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District is invited to Rule 24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests

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in respect of matters pertaining to his service under Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that he is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964.

7. The receipt of this order may be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

D.SAMBASIVA RAO
SPECIAL CHIEF SECRETARY TO GOVERNMENT (CT, EXCISE & R&S)

To

Sri Y. Manmadha Rao, DCTO, I/c CTO, Parvathipuram, Vizianagaram District (w.e, Annexures-I to IV) through the Chief Commissioner of State Tax, Andhra Pradesh, Eedupugallu, Vijayawada (with a request to serve the order on the individual and send the served copy with dated signature to Government).

Copy to:

The Director General, Anti Corruption Bureau, Pandit Nehru Bus Station, NTR Administration Block, 2nd Floor, Andhra Pradesh, Vijayawada.

The Chief Commissioner of State Tax, Andhra Pradesh, Eedupugallu, Vijayawada.

SF / SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE-I

STATEMENT OF ARTICLES OF CHARGES FRAMED AGAINST SRI YECHARLA MANMADHA RAO, DEPUTY COMMERCIAL TAX OFFICER, I/c COMMERCIAL TAX OFFICER, PARVATHIPURAM, VIZIANAGARAM DISTRICT.

That Sri Yecharla Manmadha Rao, S/o Krishnam Naidu worked as Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District from 24.06.2016 to 03.04.2017. While working as Deputy Commercial Tax Officer, I/c Commercial Tax Officer from 24.06.2016 to 03.04.2017 he has committed grave misconduct is as much as.

CHARGE:

That Sri Yecharla Manmadha Rao failed to follow the due procedure in audit of M/s Sumithra Collections as he failed to obtain signature of the dealer on the inventory statement, failed to furnish the copy of the inventory statement to the dealer and failed in obtaining his acknowledgement and that Sri Yecharla Manmadha Rao also failed to address a letter to Deputy Commissioner, Commercial Tax Department, Vizianagaram Division for authorization to issue show cause notice to the dealer Sri Kothakota Prasad.

Thus, Sri Yecharla Manmadha Rao, S/o Krishnam Naidu who worked as Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District by his above mentioned acts has exhibited lack of integrity, devotion to duty and conduct unbecoming of a Government Servant and thereby contravened Rule 3 (1) and 3 (2) of Andhra Pradesh Civil Services (Conduct) Rules, 1964.

Dr.D.SAMBASIVA RAO
SPECIAL CHIEF SECRETARY TO GOVERNMENT (CT, EXCISE & R&S)

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE-II

STATEMENT OF IMPUTATIONS OF MISCONDUCT AND MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGES FRAMED AGAINST SRI YECHARLA MANMADHA RAO, DEPUTY COMMERCIAL TAX OFFICER, I/c COMMERCIAL TAX OFFICER, PARVATHIPURAM, VIZIANAGARAM DISTRICT.

Sri Yecharla Manmadha Rao, S/o Krishnam Naidu worked as Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District. His date of birth is 01.07.1968 and he joined in Government Service on 14.03.2005 as Assistant Commercial Tax Officer, Commercial Tax Department. He was transferred as Assistant Commercial Tax Officer to O/o the Commercial Tax Officer, South Vizianagaram worked from 14.03.2005 to 24.07.2009, transferred as ACTO to O/o the CTO, Parvathipuram worked from 29.07.2009 to 02.06.2011, transferred as ACTO to O/o the CTO, East Vizianagaram worked from 03.06.2011 to 13.09.2011. He was promoted as Deputy Commercial Tax Officer on 13.09.2011 and worked at Border Check Post, Rambadrapuram from 13.09.2011 to 31.12.2011, transferred as DCTO to O/o the CTO, East Vizianagaram worked from 31.12.2011 to 23.06.2016. Finally, he worked as Deputy Commercial Tax Officer, I/c CTO, O/o the Commercial Tax Officer, Parvathipuram, Vizianagaram District from 24.06.2016 to 03.04.2017. His present basic pay is Rs.64,670/-. His date of attaining the age of superannuation is 30.06.2028. He is here in after referred to as Government Servant.

That the brief facts of the case are that Sri Kothakota Prasad and 3 others have been running departmental stores in the name and style of M/s Sumithra collections since 2014 at Parvathipuram Town. On 23.02.2017, when, Sri Kothakota Prasad went for lunch, Sri Yecharla Manmadha Rao (Government Servant), Deputy Commercial Tax Officer and his staff members visited their stores. They inspected it, asked Sri Kothakota Prasad to come to the office of Government Servant along with concerned records, bill books etc and left the said stores. Accordingly, Sri Kothakota Prasad took the same to the office of Commercial Tax Officer, Parvathipuram and met Government Servant on 27.02.2017 and the Government Servant in-turn took all the records submitted by Sri Kothakota Prasad and informed him that after verifying all the records, he will inform him about the tax to be paid. Again on 24.03.2017, Sri Kothakota Prasad went to the office of Commercial Tax Officer and met Government Servant and Government Servant informed that Sri Kothakota Prasad have to pay an amount of about Rs.3 to 4 Lakhs towards tax and asked him to come on 03.04.2017 to know the exact amount of the tax to be paid. Accordingly, Sri Kothakota Prasad went to the office of Commercial Tax Officer, Parvathipuram on 03.04.2017 morning, met Government Servant and requested to do proper assessment as he was paying the tax promptly. Then Government Servant informed that if Sri Kothakota Prasad would pay bribe amount of Rs.50,000/- to Government Servant, then Government Servant would assess tax properly or otherwise a tax up to Rs.3 to 4 lakhs would be leveled on their stores. Even though Sri Kothakota Prasad was not willing to pay the bribe, he agreed before Government Servant to pay the bribe amount of Rs.50,000/- to him as there was no other way. Then Government Servant asked him to bring the bribe amount to his office on 04.04.2017 afternoon. As Sri Kothakota Prasad was not willing to pay the demanded bribe to the Government Servant, he approached Deputy Superintendent of Police, Anti Corruption Bureau, Vizianagaram on 03.04.2017 at 1530 hours and lodged a written report with request to take necessary legal action against the Government Servant. After following due procedure, the Deputy Superintendent of Police, Anti Corruption Bureau, Vizianagaram Range registered the complaint of Sri Kothakota Prasad as a case in Cr.No.05/RCT-ACB/VZM/2017 U/s 7 of Prevention of Corruption Act, 1988 on 04.04.2017 at 0700 hours and took-up investigation.

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That the Government Servant was trapped on 04.04.2017 in the Chamber of Commercial Tax Officer, Parvathipuram, Vizianagaram District, when the Government Servant further demanded and accepted the bribe amount of Rs.50,000/- through Sri V.V.V.L. Narasimha Murthy, Assistant Commercial Tax Officer from Sri Kothakota Prasad in abuse of his official position for doing official favour i.e., to levy tax as per the records and not to inflate the tax of Sumitra Collections Departmental Store.

That the draft show cause notice relating to Sri Kothakota Prasad and connected records were seized in the office of the Commercial Tax Officer, Parvathipuram, Vizianagaram District from the possession of Sri V.V.V.L. Narasimha Murthy duly following the prescribed procedure in the presence of mediators and the Assistant Commissioner, Commercial Tax, Vizianagaram under cover of the post-trap proceedings. The Assistant Commissioner, Commercial Tax, Vizianagaram perused the file and informed the present status of the file and irregularities made by Government Servant.

That during the course of investigation, the Deputy Commissioner of State Tax, Vizianagaram Division furnished information vide his letter Rc.No. 158/2007-A6, dated: 07.07.2017 that the irregularities noticed as per the audit file of M/S Sumitra Collections Departmental Stores, Parvathipuram are 1. Signature of the dealer on the inventory statement has been not obtained by the audit officer i.e. Government Servant Sri Yecharla Manmadha Rao, 2. Copy of the inventory statement has not been given to the dealer as the acknowledgement of the inventory statement is not available in the file, 3. Authorization for Assessment in ADM1C by the DC (CT) yet to be obtained, only draft show cause notice in available in the file, 4. After obtaining Assessment Authorization in ADM 1 C from the DC (CT) a show cause notice has to be issued.

That on examination Sri Pasupuleti Satya Kumar, S/o Rama Chandra Rao, 55 Years, Assistant Commissioner (LTU), Vizianagaram Division stated that the procedure for auditing and fixation of tax is the audit of which dealer will be done can be decided either by the Commercial Tax Officer or by the Deputy Commissioner (Commercial Taxes) or on recommendation of the Commercial Tax Officer. Then the Deputy Commercial Tax Officer concerned will inspect the shop, prepare inventory of articles present in the shop at the time of the inspection, serve a copy of the inventory on the dealer and obtain the signature of the dealer on the inventory as acknowledgement. Then the audit officer shall secure the bill books, stock registers, bills and vouchers from the dealer and verify the monthly returns and book of accounts to find out if there are any tax dues. If any tax is due to the Department, it has to be intimated to the Deputy Commissioner for getting authorization of the Deputy Commissioner to issue a show cause notice to the dealer in Form VAT 305. After getting authorization from the Deputy Commissioner, a show cause notice has to be prepared and served on the dealer of collection of tax.

That during the course of trap proceeding, the Deputy Commissioner perused the file relating to M/s Sumitra Collections Departmental Stores, Parvathipuram in the presence of mediators and stated that the audit was ordered by Deputy Commissioner, Commercial Tax, Vizianagaram on 05.01.2017 to the Government servant, basing on the recommendation made by to the Government servant on 30.12.2016. Accordingly, on 23.02.2017 the Government servant along with his staff visited M/S Sumitra Collections Departmental Stores, Parvathipuram, inspected it, prepared inventory of articles and asked the dealer Sri K. Prasad to come to Commercial Tax Office, Parvathipuram along with concerned bill books, records, vouchers and etc. Later, Sri K. Prasad submitted the records, bill books and vouchers of his shop

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to the O/o Commercial Tax, Parvathipuram. The audit file relating to M/S Sumitra Collections contains draft show cause notice found to have been prepared on 03.04.2017 proposing tax of Rs.52,320/-. It was approved by to the Government servant on 04.04.2017 by signing on it. He did not address a letter to the Deputy Commissioner, Commercial Tax Department, Vizianagaram Division for authorization to issue show cause notice to the dealer Sri Kothakota Prasad. Further, the inventory of articles prepared in M/s Sumitra Collections, Parvathipuram does not contain the signature of the person concerned of M/s Sumitra Collections, Parvathipuram, which is mandatory in the process of audit of a business establishment and the Government servant miserably failed in following the mandatory rule in the process of audit. As per the audit file of M/s Sumitra Collections, the audit process was still pending with the Government Servant as on 04.04.2017.

Hence, Sri Yecharla Manmadha Rao failed to follow the due procedure in audit of M/s Sumithra Collections as he did not obtain signature of the dealer on the inventory statement, he did not furnish the copy of the inventory statement to the dealer, did not obtain his acknowledgement and that Sri Yecharla Manmadha Rao also failed to address a letter to Deputy Commissioner, Commercial Tax Department, Vizianagaram Division for authorization to issue show cause notice to the dealer Sri Kothakota Prasad.

Thus, Sri Yecharla Manmadha Rao, S/o Krishnam Naidu who worked as Deputy Commercial Tax Officer, I/c Commercial Tax Officer, Parvathipuram, Vizianagaram District by his above mentioned acts has exhibited lack of integrity, devotion to duty and conduct unbecoming of a Government Servant and thereby contravened Rule 3 (1) and 3 (2) of Andhra Pradesh Civil Services (Conduct) Rules, 1964.

Thus Government Servant has therefore rendered himself liable for regular Departmental Action for major penalty.

Dr.D.SAMBASIVA RAO
SPECIAL CHIEF SECRETARY TO GOVERNMENT (CT, EXCISE & R&S)

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGES FRAMED AGAINST SRI YECHARLA MANMADHA RAO, DEPUTY COMMERCIAL TAX OFFICER, I/c COMMERCIAL TAX OFFICER, PARVATHIPURAM, VIZIANAGARAM DISTRICT.

1. Photostat copy of Rc. No. 158/2007-A6 dated: 07.07.2017 of the Deputy Commissioner of State Tax, Vizianagaram Division.
2. Photostat copies of 161(3) Cr.P.C. statement of Sl.No.1 mentioned in Annexure-III.
3. Photostat copy of file relating to the audit of M/s Sumithra Collections, Parvathipuram.
4. Any other document if necessary it will be produced at the time of enquiry.

Dr.D.SAMBASIVA RAO
SPECIAL CHIEF SECRETARY TO GOVERNMENT (CT, EXCISE & R&S)

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE-IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGES FRAMED AGAINST SRI YECHARLA MANMADHA RAO, DEPUTY COMMERCIAL TAX OFFICER, I/c COMMERCIAL TAX OFFICER, PARVATHIPURAM, VIZIANAGARAM DISTRICT.

1. Sri Pasupuleti Satya Kumar, S/o Rama Chandra Rao, age 55 years, Deputy Commissioner of State Tax, (Formerly Asst. Commissioner, Commercial Tax) Vizianagaram Division.
2. Sri Kothapalli Ravi Kumar, S/o Late K.Rama Rao, 56 Years, Assistant Motor Vehicle Inspector, O/o the Deputy Transport Commissioner, Vizianagaram, R/o B.J.M. Patrudu Colony, Koramandal Gate, Malakapuram, Visakhapatnam City.
3. Sri Gongada Ratna Babu, S/o Late G. Sundara Rao, 36 Years, Junior Assistant, O/o the Deputy Transport Commissioner, Vizianagaram, R/o LIG-H-247, Alakananda Colony, Vizianagaram Town.
4. Smt. Shaik Shakeela Banu, Deputy Supdt. of Police, Anti-Corruption Bureau, Vizianagaram Range, Vizianagaram.
5. Sri D. Ramesh, Inspector of Police, Anti Corruption Bureau, Vizianagaram Range, Vizianagaram.
6. Sri K. Satish Kumar, Inspector of Police, Anti Corruption Bureau, Vizianagaram Range, Vizianagaram.
7. Any other witness if necessary, he/she will be produced at the time of enquiry.

Dr.D.SAMBASIVA RAO
SPECIAL CHIEF SECRETARY TO GOVERNMENT (CT, EXCISE & R&S)

//FORWARDED:: BY ORDER//

SECTION OFFICER